



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

NOV 26 1997

REPLY TO THE ATTENTION OF: SE-5J

PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Rust-Oleum Corporation
% Prentice Hall Corporation,
Resident Agent
33 N. LaSalle St.
Chicago, IL 60602-2607



Re: Request for Information Pursuant to Section 104 of CERCLA for the **S. Indiana Ave. Vacant Lot Site** in Chicago, Cook County, Illinois

Dear Sir or Madam:

The United States Environmental Protection Agency (U.S. EPA or the Agency) seeks your cooperation in providing information and documents relating to the contamination of the S. Indiana Ave. Vacant Lot Site at 119 E. 43rd St. in Chicago, Cook County, Illinois (the Site). A Superfund site is a site contaminated with high levels of hazardous substances that may present a threat to human health or the environment.

We encourage you to give this matter your immediate attention and request that you provide a complete and truthful response to this Information Request and attached questions (Attachment B) within **twenty-one (21) days** of your receipt of this letter.

U.S. EPA is investigating the release or threat of release of hazardous substances, pollutants, or contaminants at the Site. U.S. EPA is seeking to obtain information concerning the generation, storage, treatment, transportation, and methods used to dispose of such substances that have been, or threaten to be, released from the Site. U.S. EPA will study the effects of these substances on the environment and public health. In addition, U.S. EPA will identify activities, materials, and parties that contributed to contamination at the Site. U.S. EPA believes that you might have information that may assist the Agency in its investigation of the Site.

The Site is one of several lots formerly occupied by a paint business; approximately 50-60 drums and various other containers, some of which are deteriorating, are on the Site. Analytical results of drum samples collected by U.S. EPA in July 1997 indicate the presence of hazardous and ignitable substances, including toluene, xylene, and lead.

The federal "Superfund" law (the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, et seq., commonly referred to as "CERCLA" and "Superfund") gives U.S. EPA the authority to, among other things: (1) assess contaminated sites, (2) determine the threats to human health and the environment posed by each site, and (3) clean up those sites in the order of the relative threats posed by each.

Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), U.S. EPA has broad information gathering authority which allows U.S. EPA to require persons to furnish information or documents relating to:

- (A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility.
- (B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.
- (C) Information relating to the ability of a person to pay for or to perform a cleanup.

While U.S. EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under federal law.

Some of the information U.S. EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold the information upon that basis. If you wish U.S. EPA to treat the information confidentially, you must advise U.S. EPA of that fact by following the procedures outlined in Attachment A, including the requirement for supporting your claim for confidentiality.

If you have information about other parties who may have information that may assist the Agency in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the time frame noted above.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq.

Instructions on how to respond to the questions in Attachment B to this document are described in Attachment A. Your response to this Information Request should be mailed to:

**U.S. Environmental Protection Agency
Attention: Sally Jansen
Emergency Enforcement Support Section, SE-5J
77 West Jackson Boulevard
Chicago, IL 60604-3590**

If you have legal questions about the Site, please contact Jose C. de Leon, Assistant Regional Counsel (phone: [312] 353-7456; fax: [312] 886-0747). If, however, you have specific questions about the Information Request, please contact Sally Jansen ([312] 353-9046; fax: [312] 886-0753).

We appreciate and look forward to your prompt response to this Information Request.

Sincerely,



for Richard C. Karl, Chief
Emergency Response Branch

Enclosures

ATTACHMENT A

S. INDIANA AVE. VACANT LOT SITE CHICAGO, COOK COUNTY, ILLINOIS

INSTRUCTIONS AND DEFINITIONS FOR INFORMATION REQUEST

INSTRUCTIONS

1. Answer Every Question Completely. A separate response must be made to each of the questions set forth in this Information Request. For each question contained in this letter, if information responsive to this Information Request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Number Each Answer. Precede each answer with the corresponding number of the question and the subpart to which it responds.
3. Provide the Best Information Available. Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered noncompliance with this Information Request.
4. Identify Sources of Answer. For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.
5. Continuing Obligation to Provide/Correct Information. If additional information or documents responsive to this Request become known or available to you after you respond to this Request, U.S. EPA hereby requests, pursuant to CERCLA Section 104(e), that you supplement your response to U.S. EPA.
6. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42.U.S.C. §§ 9604(e)(7)(E) and (F), and Section 3007(b) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927(b), and 40 C.F.R. § 2.203(b).

If you make a claim of confidentiality for any of the information you submit to U.S. EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

- a. the portions of the information alleged to be entitled to confidential treatment;
- b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- c. measures taken by you to guard against the undesired disclosure of the information to others;
- d. the extent to which the information has been disclosed to others; and the precautions taken in connection therewith;
- e. pertinent confidentiality determinations, if any, by U.S. EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
- f. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "**Confidential**" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all nonconfidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to U.S. EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by U.S. EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by U.S. EPA, then it may be made available to the public by U.S. EPA without further notice to you.

7. Disclosure to U.S. EPA Contractor. Information which you submit in response to this Information Request may be disclosed by U.S. EPA to authorized representatives of the United States, pursuant to 40 C.F.R. §2.310(h), even if you assert that all or part of it is confidential business information. Please be advised that U.S. EPA may disclose all responses to this Information Request to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within 14 (fourteen) days of receiving this Information Request.

8. **Personal Privacy Information.** Personnel and medical files, and similar files, the disclosure of which to the general public may constitute an invasion of privacy, should be segregated from your responses, included on separate sheet(s), and marked as "**Personal Privacy Information.**"

9. **Objections to Questions.** If you have objections to some or all the questions within the Information Request letter, you are still required to respond to each of the questions.

DEFINITIONS

The following definitions shall apply to the following words as they appear in this Information Request.

1. The term "**arrangement**" means every separate contract or other agreement between two or more persons, whether written or oral.
2. The term "**documents**" includes any written, recorded, computer-generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control, or known by you to exist, including originals, all prior drafts, and all nonidentical copies.
3. The term "**identify**" means, **with respect to a natural person**, to set forth: (a) the person's full name; (b) present or last known business and home addresses and telephone numbers; (c) present or last known employer (include full name and address) with title, position, or business).
4. The term "**identify**" means, **with respect to a corporation, partnership, or other business entity** (including a sole proprietorship), to provide its full name, address, and affiliation with the individual and/or company to whom/which this request is addressed.
5. The term "**hazardous substance**" shall have the same definition as that contained in Section 101(14) of CERCLA, and includes any mixtures of such hazardous substances with any other substances, including mixtures of hazardous substances with petroleum products or other nonhazardous substances.
6. The term "**material**" or "**materials**" shall mean any and all objects, goods, substances, or matter of any kind, including but not limited to wastes.
7. The term "**person**" shall include any individual, firm, unincorporated association, partnership, corporation, trust, or other entity.
8. The term "**pollutant or contaminant**" shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the

environment will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations; except that the term "pollutant or contaminant" shall not include petroleum.

9. The term "**release**" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

10. The term "**Site**" shall mean the S. Indiana Ave. Vacant Lot Superfund Site, which includes the real property located at 119 E. 43rd St. in Chicago, Cook County, Illinois.

11. The term "**you**" shall mean the company to which this Information Request is addressed. The term "you" also includes any officer, managers, employees, contractors, trustees, successors, assigns, and agents of the company to which this Information Request is addressed.

12. The term "**waste**" or "**wastes**" shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants or contaminants, whether solid, liquid, or sludge, including but not limited to containers for temporary or permanent holding of such wastes.

ATTACHMENT B

S. INDIANA AVE. VACANT LOT SITE CHICAGO, ILLINOIS

REQUEST FOR INFORMATION

REQUESTS

1. Identify all persons consulted in the preparation of the answers to these Information Requests.
2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these Requests, and provide copies of all such documents.
3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons.
4. List the EPA Identification Numbers of the Respondent.
5. Did Rust-Oleum Corporation at any time from 1950 to 1990 deliver, sell, transfer, ship, barter, give away, or exchange any paints and/or coatings, paint and/or coating by-products, any constituent of paint and/or coatings, any other paint materials, any solvents, any substances used in Rust-Oleum's manufacturing process, or any waste material to a Robert Lane of Chicago, Illinois, and/or to Robert Lane's paint business.
6. If the answer to Question 5 is affirmative, identify the following:
 - a. All persons, including yourself, who may have arranged for transportation to the Site;
 - b. The persons with whom you or such other persons made such arrangements;
 - c. Every date on which such arrangements took place;
 - d. For each transaction, the nature of the material, including the chemical content, characteristics, physical state (e.g., solid, liquid), and the process for which the substance was used or the process which generated the substance;
 - e. The owner of the materials so accepted or transported;

- f. The quantity of the materials involved (weight or volume) in each transaction and the total quantity for all transactions;
 - g. All tests, analyses, and analytical results concerning the materials;
 - h. The person(s) who selected the Site as the place to which the materials were to be transported;
 - i. The amount paid in connection with each transaction, the method of payment, and the identity of the person from whom payment was received;
 - j. Where the person identified in "h" above intended to have such materials transported and all evidence of this intent;
 - k. What was actually done to the materials once they were brought to the Site;
 - l. The final disposition of each of the materials involved in such transactions;
 - m. The type and number of containers in which the materials were contained when they were accepted for transport, and subsequently until they were deposited at the Site, and all markings on such containers;
 - n. The price paid for (i) transport of or (ii) disposal of each material, or (iii) both;
 - o. All documents containing information responsive to "a-n" above, or in lieu of identification of all relevant documents, provide copies of all such documents;
 - p. All persons with knowledge, information, or documents responsive to "a-n" above.
7. Identify all current and/or former employees who worked in the shipping/receiving department at Rust-Oleum Corporation's Evanston facility from 1950 to 1990.

SITE:
TYPE OF LETTER SENT:
TO:

DATE SENT:
ARTICLE NO.:

S. INDIANA VACANT LOT
IR
RUST-OLEUM CORPORATION
% RESIDENT AGENT
NOVEMBER 26, 1997
P 371 903 933

P 371 903 933

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.

Rust-Oleum Corporation

% Prentice Hall Corporation,

Resident Agent

33 N. LaSalle St.

Chicago, IL 60602-2607

Postage

\$

.55

Certified Fee

1.35

Special Delivery Fee

Restricted Delivery Fee

Return Receipt Showing to Whom & Date Delivered

1.10

Return Receipt Showing to Whom, Date, & Addressee's Address

TOTAL Postage & Fees

\$

3.00

Postmark or Date

S. Jansen
PS Form 3800, April 1995



Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front).

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (*no extra charge*).

2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.

3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.

4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.

5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.

6. Save this receipt and present it if you make an inquiry.

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Rust-Oleum Corporation
% Prentice Hall Corporation,
Resident Agent
33 N. LaSalle St.
Chicago, IL 60602-2607

4a. Article Number

P 371 903 933

4b. Service Type

- | | |
|---|---|
| <input type="checkbox"/> Registered | <input checked="" type="checkbox"/> Certified |
| <input type="checkbox"/> Express Mail | <input type="checkbox"/> Insured |
| <input type="checkbox"/> Return Receipt for Merchandise | <input type="checkbox"/> COD |

7. Date of Delivery

11/28/97

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

A. Lane

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

● Print your name, address, and ZIP Code in this box ●

**SALLY JANSEN
US EPA SE-5J
77 W JACKSON BLVD
CHICAGO, IL 60604-3590**

S. Ind Vac Lot